



The Bar Council

Bar Council webinar

Maintaining ethical independence and resisting external pressure

PRE-READING FOR ATTENDEES

4 March 2026, 17.30-19.00

Panel

- **Chair:** James Hines KC (Ethics Committee Co-Chair, 3RB)
- Zeena Begum (Ethics Committee member, TPR)
- David Bunting (BACFI General Committee member, Deutsche Bank)
- Brian Cahill (Ethics Committee member)

Bar Council Ethical Enquiries Service

The Bar Council runs the confidential Ethical Enquiries Service for barristers and, where appropriate, clerks and other staff, to assist with identifying, interpreting and complying with their ethical obligations under the BSB Handbook. Information about the Ethical Enquiries Service can be found on the Bar Council's website [here](#).

To further support members of the Bar, the Bar Council has created the Ethics & Practice Hub, a dedicated online library with ethical guidance documents which discuss common dilemmas on a variety of topics. The Ethics & Practice Hub can be accessed [here](#).

Bar Standards Board resources

[The BSB Handbook \(containing the code of conduct\)](#)

[BSB Code Guidance](#)

Key Handbook provisions relating to independence

CD4- you must maintain your independence

rC8- You must not do anything which could reasonably be seen by the public to undermine your honesty, integrity (CD3) and independence (CD4).

rC21.10- You must not accept instructions to act in a particular matter if: there is a real prospect that you are not going to be able to maintain your independence.

CD5- You must not behave in a way which is likely to diminish the trust and confidence which the public places in you or in the profession [CD5].

Examples of how you may be seen as compromising your independence

gC18 The following may reasonably be seen as compromising your independence in breach of Rule 8 (whether or not the circumstances are such that Rule rC10 is also breached):

.1 offering, promising or giving: .a any commission or referral fee (of whatever size) – note that these are in any case prohibited by Rule rC10 and associated guidance; or .b a gift (apart from items of modest value), to any client , professional client or other intermediary ; or .2 lending money to any such client , professional client or other intermediary ; or .3 accepting any money (whether as a loan or otherwise) from any client , professional client or other intermediary , unless it is a payment for your professional services or reimbursement of expenses or of disbursements made on behalf of the client ;

gC19 If you are offered a gift by a current, prospective or former client , professional client or other intermediary , you should consider carefully whether the circumstances and size of the gift would reasonably lead others to think that your independence had been compromised. If this would be the case, you should refuse to accept the gift.

gC20 The giving or receiving of entertainment at a disproportionate level may also give rise to a similar issue and so should not be offered or accepted if it would lead others reasonably to think that your independence had been compromised.

gC21 Guidance gC18 to gC20 above is likely to be more relevant where you are a self-employed barrister , a BSB entity , an authorised (non-BSB) individual , an employed barrister (BSB entity) or a manager of a BSB entity . If you are a BSB authorised individual who is a an employee or manager of an authorised (non-BSB) body or you are an employed barrister (non-authorised body) and your approved

regulator or employer (as appropriate) permits payments to which Rule rC10 applies, you may make or receive such payments only in your capacity as such and as permitted by the rules of your approved regulator or employer (as appropriate). For further information on referral fees, see the guidance at gC32).

Media comment

gC22 The ethical obligations that apply in relation to your professional practice generally continue to apply in relation to media comment. In particular, barristers should be aware of the following:

- Client's best interests: Core Duty 2 and Rules C15.1-.2 require a barrister to promote fearlessly and by all proper and lawful means the lay client's best interests and to do so without regard to their own interests.
- Independence: Core Duties 3 and 4 provide that you must not permit your absolute independence, integrity and freedom from external pressures to be compromised.
- Trust and confidence: Core Duty 5 provides that you must not behave in a way which is likely to diminish the trust and confidence which the public places in you or the profession.
- Confidentiality: Core Duty 6 and Rule C15.5 require you to preserve the confidentiality of your

Seminar format

The session will look at fictional ethics scenarios in We would encourage you to read the below scenarios in advance of the seminar.

Please note that the source of all rules is the [Bar Standard's Board Handbook](#).

1. Pressure related scenario (Brian)

A junior (young) barrister is employed in the legal department of GlobeCorp Inc. One day when all the other lawyers are on holiday the company's CEO comes in and asks the barrister to produce an opinion that a particular transaction is legal and enforceable, does not breach Russia sanctions or money laundering legislation, and will not result in personal liability on the part of any employees or board members – all in the next 5 hours. The barrister says that they just cannot do this in the time available, and possibly not in any event. However, the CEO insists, saying “This is a direct order from me, under your contract of employment, so we will cover for you. Just do me a quick and dirty job, saying ‘yes’. It's in our interest, and insurance will cover any problems in case you get it wrong. Oh, and if you don't do it you will be sacked”. What should the barrister do?

2. Media Comment (Zeena)

You have been acting as junior counsel in a high-profile piece of litigation in which your client, an environmental campaign group, obtained a small shareholding in a major energy company and has been trying to obtain permission to bring a derivative claim. You have just lost at first instance and are considering an appeal. Your client thinks it would generate helpful publicity for the group and elicit financial support for the litigation, for you to write an online blog, and share it via social media, explaining the issues, the legal difficulties and why the client should succeed. Your client also says he has a contact on the Today programme who is interested in interviewing you.

3. Whistleblowing (David):

You work as in-house counsel at a large fund manager. You become aware that investments being sold to retail investors are much riskier than the marketing materials suggest. You advise that this could expose the fund manager to litigation claims for mis-selling, and to regulatory risk if the Financial Conduct Authority thinks investors were treated unfairly. The head of the business says that your advice has been considered, but she has decided to accept those risks. You want to speak out, to protect your employer as well as small investors, but you are worried about breaching your professional duty of confidentiality. Which is the best course of action?

4. Legal Ethical scenario relating to Witness Preparation (Brian)

Jane is an employed barrister working as a senior legal counsel in an international Pharmaceutical company and is handling internal legal matters relating to an upcoming complex product liability court case relating to a clinical trial in hospitals in the UK (external counsel are also involved).

A senior manager Medical Director (MD) who will be a key witness regarding the clinical trial and the trial medicine is very nervous about the whole process and the prospects of being a witness for days in court. He has never been in court before and takes the whole thing very personally and fears for his reputation etc regardless of outcome.

While MD has provided a witness statement to external counsel he approaches Jane and insists that he wants her to tell him confidentially “inside the company’s wall” what he should and should not say as a witness. MD has spoken to colleagues in the USA where there is similar litigation and they have told him that the lawyers, internally and externally, have gone through the evidence with them in detail rehearsing questions and claims and even have had a mock trial with a retired judge and jury . MD wants Jane and /or external counsel to arrange something like that in the UK to help him and anyone else who may be a witness. Other senior management ,to whom MD has spoken, have also pressed Jane to assist MD in this way as the Company’s reputation is at stake.

What can Jane do? Can she do a Perry Mason like rehearsal of the evidence -in-chief / cross examination/trial? Can she advise MD what to say and not say based upon his witness statement?

5. Accepting gifts (Zeena)

- a) I work as in house counsel for a large international bank and my client has invited me to an all expenses paid golf trip in Gleneagles, Scotland.
- b) I am a self-employed barrister practising from chambers. My rich client wants to invite me to dinner in his mansion in Hampstead. He works from his home based office and he is very busy so is suggesting a takeout dinner of modest value from the local Indian restaurant. We will discuss some aspects of the case over dinner. and the solicitor has been invited too.
- c) I am a family practitioner practising from chambers. My client, a mother in care proceedings, has bought me a modest box of chocolates. The proceedings are finished.
- d) I am a criminal law barrister. I successfully defended my client against drugs related offences; possession with intent to supply crack cocaine. My client's uncle, who I have never met and who I have no contact details for, pressed an envelope into my hand outside the Old Bailey when we shook hands. He quickly turned and walked again and by the time I opened it up to reveal a wad of cash, £500, he was too far away to hear when I called out to him.

6. Resisting pressure concerning a loan security (David):

You work for a bank which is in a competitive process against rival banks, to extend secured lending to a client. The deal is being rushed to meet the client's deadline. The deal team forgot to contact the Legal Department until the last minute, and now you're being asked to review and sign off, within the same day. You think it's probably ok, but ideally you would have more time to review whether the security for the loan is legally valid. The bank's head of sales calls you and says "look, our CEO has just said he wants this deal done and we're about to lose it to another bank if you don't sign off in the next hour, please don't be a blocker on this."

Additional scenario – time permitting

Subsidiary issues (Brian)

UMPA PLC (“U”) is an international company developing, manufacturing and selling a number of successful and in some cases leading products in Europe and elsewhere. One particular product (“product X”) is very successful with over 60% market share in its class. However, U’s Commercial subsidiary (“ComCo”) which handles all the selling and distribution of product X knows that a number of smaller competitors are seeking to develop competitive products albeit they are having difficulty in their research and manufacturing.

ComCo has put together a confidential senior project team to see if they can come up with a way of maintaining and extending the success and market share of product X. A member of that project team is Bob who is a very experienced employed barrister, employed by ComCo and is dedicated to providing legal support to ComCo and is imbedded in their senior management team at a different site from U’s HQ and central legal department. Bob is a full member of this project team and while there is much confidential correspondence within the group nothing Bob writes is formally identified as legal advice.

The project team come up with a scenario – partly prompted by approaches from some potential competitors who appear to want to drop the development of a competitor to product X – whereby they would offer to appoint some of the potential competitors as distributors of product X but under the competitor’s own brand. Negotiations begin with a number of the potential competitors.

The manufacturing subsidiary (MCo) of U is informed of this proposal by U and ComCo and do not like it. Their analysis of the manufacturing and regulatory costs of producing different packaging and branding for a number of companies is negative. In addition MCo’s own lawyer has advised that they consider there are competition law problems with what is being proposed and opponents of it are quite likely to complain to the EU/CMA etc.

U’s Executive Committee asks the U GENERAL COUNSEL to arrange for a paper setting out the scheme accompanied by full legal advice on its legitimacy.

The GC asks Bob to produce the paper and positive supporting legal advice for the project as Bob knows most about the project.

Should the GC so instruct Bob and should Bob take on the task?